

SOUTH WEST LANDLORDS ASSOCIATION NEWSLETTER



'Run for landlords by landlords'

September 2010

County Court closures worry for landlords

Up and down the country, the government is proposing to close Magistrate's or County Courts.

These are not just small rural courts: larger towns may lose their local courts.

Landlords, uniquely, **have** to go to Crown courts to obtain possession. But it is not just the courts' closures but also the overall loss of staff, court offices, and courtrooms which will result in longer waiting before you obtain possession.

In the interim, you will have to continue to provide your tenant with accommodation, whilst rent arrears build up.

The government is conducting a consultation on proposed closures some of which include magistrates' courts at:

Penzance, Camborne, Liskeard, Newton Abbot, Totnes, Honiton, Bridgewater, Frome, Poole, Blandford Forum, Cirencester, Stroud, and Coleford. Currently there are no Crown Courts in the West Country on the consultation list.

There is a 60-page document on the Southwest ending with a questionnaire at <http://www.justice.gov.uk/consultations/docs/proposal-on-the-provision-of-courts-servives-devon-cornwall-avon-somerset-gloucestershire-final.pdf>

The closing date is 15th September 2010.

See the following pages for extracts from the response from the Residential Landlords Association (RLA)

RLA response to proposed closure of Magistrates' / County Courts

Below are extracts from the response from the Residential Landlords Association (RLA) response.

"It is unlawful for residential landlords to take possession of premises without a Court order. If a landlord is in breach of this requirement he/she can visited with severe sanctions.

The landlord has to allow the tenant to continue to live in the property. This, even though the tenant is in default. Substantial rent arrears may be accruing, but the landlord cannot stop providing the service. In other situations litigants may say "enough is enough". The residential landlord does not have that option. We are particularly concerned that there are already signs that the Court system is under strain. For example Leeds County Court recently notified that they were 18 days behind in their work. This has been experienced in the past, but this is a particular concern at a time when Court fees are rising to recover more of the full cost of providing the Court Service. It is therefore wholly wrong that fees are high but the service deteriorates. It is interesting to note that this Consultation has been initiated on a local basis. There is a danger that the bigger picture will be missed on the impact to the private rented sector, where there is a necessity for landlords to engage with the Court process to gain possession.

The proposal on staff resources does not appear to be just about buildings / Court locations. In some areas permanent staff may be at risk and there may not be room for these at adjoining Courts. This is particularly so when the HMCS says "HMCS will engage with staff and trade unions during the consultation process", a clear signal of job losses.

next page.....

..... The hiatus which will result when the reorganisation occurs due to the closure of individual Courts.

Whilst more work is going onto the Internet there is still a considerable element of staff time in processing claims, particularly where hearings are involved. Many possession claims involve litigants in person and sometimes last minute applications to the Court. These have a bearing on staff resources.

The question is raised as to whether the opportunity may be taken to shed some of the judges involved. Early retirement may be an option, but this will adversely impact the processing workload.

Although some care has been taken in this issue, the problem is that by moving to larger Court areas you must consider the time taken to find car parks and their costs. For the residential landlord overall time spent travelling further to a hearing will impact the working day. As a compulsory user of the Court service, residential landlords cannot avoid this.

The issue of available court rooms is highlighted. It is not unknown for some larger County Courts to push work out to the smaller Courts when there is a shortage of Court rooms, but these will now be closed. There must be an overall reduction in the number of spaces available for hearings.

We are concerned that more and more, this 6-week rule will be breached whilst in the meantime in arrears cases the landlord is continuing to subsidise the tenant who is in arrears. On the other hand, the landlord still has to meet his/her commitments, especially where a mortgage is concerned. The bank manager or building society will not wait. The income is needed as the landlord wants to secure possession of the property and re-let it at the earliest opportunity.

What is anticipated is a considerable slowing down of the Court process due to less and less resources, set against high court fees. The closure of County Courts and associated staff reductions will lead to ever lengthening waiting periods for landlords.

It is a fundamental to the law that justice must be provided speedily and effectively and the aggregate of these proposals will mount a serious attack on this principle.

SOUTH WEST LANDLORDS ASSOCIATION
Impact on benefits from the June emergency budget
(The Herald)



It is estimated that more than 6,000 Plymouth households are set to lose up to £9.90 a week in housing benefits, according to some union leaders.

Cuts in Local Housing Allowance, announced in June's emergency budget, will hit almost everyone in private rented housing on benefit, says the TUC.

An analysis of the figures from the Department of Work and Pensions (DWP) show that Cornwall will probably suffer the worst in the South West, with more than 11,000 families affected, according to the TUC.

It is followed by Bournemouth, Torbay, Plymouth, Wiltshire, Poole, North Somerset, Swindon and South Gloucestershire.

In Plymouth the TUC says that 5,270 households will be affected by the change.

Across the whole of South West more than 83,000 families will lose an average of £10 a week in housing benefit.

Nationally 939,960 households will lose around £12 a week on average, with London faring worst.

The proposed cuts, due to come into force in April 2011 include:

- Restricting the bedroom entitlement to a maximum of four
A 5-bedroom property in central London is £2,000 per week and £1,000 per week for a 4-bedroom. The maximum allowance for a 5-bedroom property in Plymouth LHA is under £300 per week with a 4-bedroom at under £200.
- Discretionary allowances are increasing by a further £10,000,000
- Capping the amount that can be claimed under LHA at between £250 and £400 a week depending on the size of the property.
- Removing the £15 a week excess to tenants who find a good rent deal
- From October next year the way LHA rents are calculated against private sector rents is also changing.
- Nigel Costley, South West TUC's regional secretary said "This cut in housing benefit will make a real difference to some of our poorest and most vulnerable families.

Families may find themselves out of pocket to the tune of hundreds of pounds This at a time when the South West is already bearing the brunt of the Government's austerity measures.

The Chancellor promised not to hide any hard choices from the British people or bury them in the small print of budget documents, but this is another reminder that we are very definitely not all in this together. Whilst the rich have been let off, families are being left to pick up the cost of the recession"

Has this or similar happened to you?

Member Tony Langmead writes

“One Tuesday we were having mixed concrete on site and wheeling into our conversion for two floors - not something you want interrupted.

EDF turned up with locksmith and demanded entry to cut off our supply to our workshops. I naturally objected "over my dead-body" and the Police were called (x2). They informed me I would be arrested if I obstructed. A Magistrates order had been issued in the name of the former tenant who left in April. They insisted that I had been "served" - I had no knowledge of this impasse. I got my Solicitor on the mobile, and she was amazed that they had not made a Bailiffs order against their shop premises of which the address appeared on the order. In the end, to save being cut off, I paid by credit card to EDF Hove the amount demanded of over £400. The next day on review of correspondence in my office at home, I found a letter sent to Hove dated 28th May. This was as a result of a conversation I wrote the facts down, readings, date of final rent, date of leaving, no legal connection with Tenant etc and Faxed it to them as requested. I rang "Natalie" on the number and told her I have paid by credit card, and after a frosty conversation, eventually got a Manager who said the amount would be put back on my card. As yet I do not have confirmation. I have now put the matter in the hands of my Solicitors, and asked them to convey to EDF my claim for £300 damages, plus legal cost now incurred.

The moral of the story is "big brother" treatment of a humble landlord being confronted by force - it beggars belief. It is worrying as our shop (occupied by same tenant) has a supply probably by EDF, and on this supply is a "Landlords" sub-meter for which we compensate the tenant for a small amount of energy consumed for inter-connecting fire alarms and emergency light for a staircase to TWO flats sold on 125 year Leases. If they cut the power "lives would be in danger" and our Management company liable.

I have now had another billing correctly address for the metering on reversion to Landlord for the princely sum of £34odd and have paid immediately. Cannot find out if the original credit-card payment was refunded - no reply from EDF Energy as requested, and I cannot get through to MBNA who are the credit card providers.

Will keep you up-dated as the saga continues

I think these suppliers are riding rough-shod over Landlords.”

Tony Langmead Property Partnership

From Tozers (solicitors) newsletter

Fallout from Foxtons—agent ordered to repay renewal fees (Chestertons Global v The Waterfront Partnership & Nicholas Finney)

The agent's standard letting terms contained a clause obliging the landlord to pay the renewal fees to the agent. When the landlord refused to pay the fees at £3,800, the agent took the landlord to court. The landlord counter-claimed for the £3,700 he had paid the agent in past renewal fees. The court found for the landlord on the basis that the relevant renewal fee clause was an unfair term and therefore unenforceable. The court took into account that the landlord was a consumer even though he had purchased the rental property as an investment. The landlord had one investment property so he was not deemed a professional landlord.

The landlord had no say in whether or not the tenancy agreement was renewed.

Chris Stott re The Royal Fleet Club

“The Royal Fleet Club hotel has sadly closed its doors and will undergo redevelopment. The quality furniture, fixtures and fittings will be sold at knock-down prices and I thought this could be of interest to your members, some of whom may wish to upgrade / fit out anew.

Full complement of bedroom furniture from 55 rooms:

* Modern black and oak suites - standard oak suites - mahogany suites *
double beds / single beds / bed-heads / bedding / wardrobes / framed mirrors / side tables & lamps / desks & chairs / TV / curtains / framed pictures.
(most in good condition)

* set of eight large framed colourful floral prints from the foyer *

* furniture and fixtures from three bar / club areas *
bars / security screens / cash registers / aerated drink vending dispensers / DJ system - console, turntables, mixer, cd players, EQ, speakers / 40 assorted ceiling dance floor lights / assorted tables / built in sofas / stools / bar stools / glasses / wall hangings / trestle tables / curtains / 2 x full - size pool tables / ping pong table / quality carpeting / assorted bar equipment / dining table and six upholstered chairs / executive leather chair / treadmill exercise machine / assorted kitchen equipment utensils and crockery.

We have an inventory and series of photographs which would be a pleasure to e mail to any of your members who are interested that could contact me by phone or by e mail.

Chris Stott

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A window of opportunity

Landlords who have refurbishment projects coming up which involve window replacement are advised that costs will rise significantly after 30th September 2010. From then on, double-glazing suppliers will be forced, by law, to sell windows that meet new criteria.

A change in Part L of the Buildings Regulations states that windows sold from October onwards must have a minimum Window Energy Rating (WER) of C or higher.

Although these windows will provide better heat efficiency, the extra costs in production mean they will be more expensive for manufacturers, suppliers, installers and therefore ultimately for the consumer.

However, you can order existing and less expensive double-glazing before September 30 and providing it is installed before April 6, 2011, you will still be able to receive the necessary FENSA certification which is required on all new replacement windows and doors (unless otherwise approved by Building Control).

After these cut-off dates, any remaining stock will be useless to suppliers, so right now is a unique one-off opportunity to purchase more affordable double-glazing before it becomes obsolete.

After September 30, the cost of installing double-glazing for a three-bed semi would rise by 15-20%. Although you could wait until next spring to have it installed, quite legally, financially you would do better to get the work done before VAT goes up to 20% on January 2011.

from the RLA

From the Association

Possession claims on-line (Section 8)

Possession claims for rent arrears (Section 8) can be submitted over the internet and costs £100 instead of £150 for the paper-based claim. It is still a requirement that you attend a court hearing in your local crown court, although the defendant does not have to attend.

The internet address is www.possessionclaim.gov.uk.

It has come to light that claims for **possession** only (Section 21) **cannot** be lodged through the on-line claim system.

SWLA stationery

SWLA stationery may change without notice so before using a document, make sure that you use the latest one on the SWLA website, by checking the issue date or check with the SWLA office at the email address or telephone number shown below.

East End Transport Scheme

Details of the East End Transport Scheme are at www.plymouth.gov.uk/eastendtransportscheme. Changes will include Laira Bridge Road, Gdynia Way, and the areas around Embankment Road, Cattedown Roundabout, Grenville Road, Heles Terrace etc. Most significant is the closure of Gdynia Way from Laira Bridge.

Committee member Bob Usher writes of his experiences with a Section 8 for rent arrears at Plymouth Crown Court. 4th June 2010 submitted a claim over the Internet. The hearing was on 13th July 2010 and I received a judgement letter on 21st July 2010. Possession obtained on 5th August 2010. Procedure time 62 days. The defendant did not appeal or attend the hearing. Possession was gained in line with the judgement.

If a tenant enters any form of defence, proceedings will invariably take longer.

If the tenant does not vacate then the bailiff has to be instructed incurring a further cost (approximately £100), which causes a further delay in actual possession.

Greg Yates solicitor

Greg Yates is now with Howard & Over on 01752 556606 and will continue to support our members as before.

The Association provides assistance and advice. However, the Association does not hold itself out as providing specialist legal advice and therefore whilst written and oral advice is given in good faith, no responsibility can be accepted by the association, its officers or members for the accuracy of its advice, or shall the association be held liable for the consequences of reliance upon such advice.